

## Department of Health and Human Services

## § 101.33

Secretary may re-delegate the Secretary's priority rating activities under the DPA though the allocations authority provided to the Secretary is not subject to delegation per Section 201(e) of E.O. 13603.

### § 101.31 Priority ratings.

(a) *Levels of priority.* (1) There are two levels of priority established by Federal Priorities and Allocations System regulations, identified by the rating symbols "DO" and "DX".

(2) All DO-rated orders have equal priority with each other and take precedence over unrated orders. All DX-rated orders have equal priority with each other and take precedence over DO-rated orders and unrated orders. (For resolution of conflicts among rated orders of equal priority, see § 101.34(c).)

(3) In addition, a Directive regarding priority treatment for a given item issued by the Department of Health and Human Services for that item takes precedence over any DX-rated order, DO-rated order, or unrated order, as stipulated in the Directive. (For a full discussion of Directives, see § 101.62.

(b) *Program identification symbols.* Program identification symbols, such as "DO-HR", or "DX-HR", indicate which approved program is being supported by a rated order. Programs may be approved under the procedures of E.O. 13603 Section 202 at any time. Program identification symbols do not connote any priority.

(c) *Priority ratings.* A priority rating consists of the rating symbol—DO or DX—and the program identification symbol, such as DO-HR or DX-HR.

### § 101.32 Elements of a rated order.

Each rated order must include:

(a) The appropriate priority rating (*e.g.* DO-HR or DX-HR);

(b) A required delivery date or dates. The words "immediately" or "as soon as possible" do not constitute a delivery date. A "requirements contract", "basic ordering agreement", "prime vendor contract", or similar procurement document bearing a priority rating may contain no specific delivery date or dates and may provide for the furnishing of items or service from

time-to-time or within a stated period against specific purchase orders, such as "calls", "requisitions", and "delivery orders". These purchase orders must specify a required delivery date or dates and are to be considered as rated as of the date of their receipt by the supplier and not as of the date of the original procurement document;

(c) The written signature on a manually placed order, or the digital signature or name on an electronically placed order, of an individual authorized to sign rated orders for the person placing the order. The signature or use of the name certifies that the rated order is authorized under this part and that the requirements of this part are being followed; and

(d)(1) A statement that reads in substance:

This is a rated order certified for national defense use, and you are required to follow all the provisions of the Health Resources Priorities and Allocations System regulation at 45 CFR part 101.

(2) If the rated order is placed in support of emergency preparedness requirements and expedited action is necessary and appropriate to meet these requirements, the following sentences should be added following the statement set forth in paragraph (d)(1) of this section:

(i) This rated order is placed for the purpose of emergency preparedness. It must be accepted or rejected within two (2) days after receipt of the order if:

(A) The order is issued in response to a hazard that has occurred; or

(B) If the order is issued to prepare for an imminent hazard, as specified in HRPAS § 101.33(e).

(ii) [Reserved]

### § 101.33 Acceptance and rejection of rated orders.

(a) *Mandatory acceptance.* (1) Except as otherwise specified in this section, a person shall accept every rated order received and must fill such orders regardless of any other rated or unrated orders that have been accepted.

(2) A person shall not discriminate against rated orders in any manner such as by charging higher prices or by